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LETTER DATED 13 SEPTEMBER 1993 FROM THE PERMANENT REPRESENTATIVE OF NEW ZEALAND TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

I have the honour to enclose a paper that New Zealand has prepared for the consideration of members of the Security Council, which contains a number of proposals concerning Security Council action on resolutions establishing peace-keeping operations.

I should be grateful if this letter and its attachment could be circulated as a document of the Security Council.

(Signed) Colin R. KEATING
Permanent Representative

93-50277 (E) 170993 190993

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Annex

Security Council action on resolutions establishing peace-keeping operations

1. New Zealand considers that the Security Council is steadily improving the quality of its consideration of issues relating to the establishment of mandates for peace-keeping operations. Resolution 858 (1993) is a good example of the progress that has been made.

2. Looking to the future, and bearing in mind the operational principles identified in the presidential statement of 28 May 1993 (S/25859), New Zealand proposes that, unless there are exceptional circumstances, the following elements should be employed in all resolutions authorizing peace-keeping operations:

(a) A precise statement of the mandate;

(b) A defined term for the mandate;

(c) Provision for review of the mandate;

(d) A requirement for ongoing reporting;

(e) Requirements relating to the safety of United Nations personnel.

3. New Zealand also proposes that it should become standard practice for the Council:

(a) To obtain detailed financial statements;

(b) To obtain input from States not members of the Security Council.

A. Precise statement of mandate

4. In New Zealand's view, more deliberate Security Council discussion prior to authorization of an operation can only improve the quality of the eventual decision and reduce the subsequent need to revisit the issue. In resolution 858 (1993) it proved possible to define concretely the mandate in three short subparagraphs.

5. This is not to oppose necessary levels of flexibility. But in our opinion, when the Council sees the need for flexibility, it is essential that there be, first of all, a clear understanding of the limits of flexibility - all the more need, in such cases, for deliberate debate in advance.

6. The perceived advantages of flexibility are more often than not likely to be outweighed by the dangers of imprecision and open-endedness. There are already too many examples of situations where United Nations responsibility has incrementally expanded under a vague mandate in response to the day-to-day

pressure of developments. This can lead to operational confusion and a United Nations commitment quite different from the one originally contemplated.

7. In the case of complex mandates, it would be desirable for the details of the mandate to be set out in an annex to the resolution. This would greatly assist potential troop-contributing countries in identifying what the operation involved, in preparing their personnel and in securing the necessary support, both material and financial. It would assist the media in understanding the operation properly and it would assist the explanation of the operation to the population in the country affected.

B. Term of mandate

8. In New Zealand's view, it is important that mandates not be unrealistically short. Given the inevitable lead-time in setting up operations, it is important not to create artificial and unnecessary deadlines at too early a stage.

9. It is also fiscally more responsible, where common sense indicates that the operation will need to run for a reasonable period, to provide a realistic time-frame for the mandate. This enables proper financial planning by troop-contributing countries and a responsible basis for consideration of appropriations in the Fifth Committee of the General Assembly.

10. It is equally important, however, that mandates not be open-ended. Unlimited terms have the tendency to encourage protagonists to avoid negotiating permanent peaceful solutions to underlying causes of conflict. In most cases an initial term for a mandate should not be less than 6 months and not longer than 12 months.

C. Provision for review

11. All mandates should include specific provision for review after a defined period. Virtually all operations will need fine-tuning after actual experience in the field. In New Zealand's view a formal review is the responsible way for dealing with the need for flexibility to respond to such situations. In most cases an initial review should take place after 90 days. Thereafter reviews should be set at six-month intervals.

12. Formal review also serves to allow an opportunity for important political assessments to be made about the ongoing viability of an operation or the acceptability to the Security Council of continuing an operation where, for example, a party to the conflict is not living up to its obligations.

D. Reporting requirements

13. New Zealand considers that regular reporting to the Council (which should be shared with troop-contributing countries) is essential for the proper discharge, in a transparent manner, of the relevant provisions of Chapters V, VI and VII of the Charter of the United Nations.

14. The daily situation reports from the United Nations Protection Force (UNPROFOR) are a useful model. For other operations, such as the United Nations Operation in Somalia (UNOSOM), weekly situation reports might be appropriate. Certainly, as a minimum, monthly reports from all operations should become the norm.

E. Safety requirements

15. New Zealand also considers that in this very important area the Security Council is again steadily improving its practice. But more needs to be done.

16. We welcome the Secretary-General's report (S/26358) dated 27 August 1993 in response to the presidential statement of 31 March 1993 (S/25493) and which, in paragraph 35, addresses the action which can be taken by the Council at the time of establishing a mandate.

17. New Zealand believes that, in general, resolutions establishing mandates should require that before any deployment:

(a) All the parties to the conflict should confirm to the Secretary-General that they will take all necessary measures to ensure the security and safety of the United Nations operation and all its personnel;

(b) The host country should confirm that the provisions of the Convention on the Privileges and Immunities of the United Nations will apply from day one and, in the event that this is not feasible de jure, then it will be applied de facto, provided that the necessary legal action is taken within 60 days and that benefits to the United Nations are retroactive to the effective date of commencement of the operation;

(c) A status-of-forces/mission agreement is concluded within 60 days of the adoption of the mandate confirming, inter alia, the status of all personnel, including contract staff and non-governmental organizations (NGO) staff who are engaged in the operation.

18. New Zealand also considers that the Security Council should develop a standard statement, which could conveniently be included in or annexed to each resolution establishing a mandate. Such a statement should incorporate the following:

(a) Attacks or use of force against United Nations personnel will be considered as interference with the exercise of the responsibility of the Security Council under the Charter and may require the Council to consider appropriate measures;

(b) Failure to meet obligations to take all necessary steps with regard to the safety and security of United Nations operations and personnel may also require the Council to consider appropriate measures;

(c) The Security Council will hold persons who order or carry out attacks on United Nations personnel accountable for their actions.

F. Financial information

19. Under Article 17 of the Charter, the General Assembly has exclusive competence to adopt decisions on financial matters. Nevertheless New Zealand believes that all members of the Security Council have a responsibility to ensure that peace-keeping operations, which the Council approves, have a sound financial and administrative basis. This means that it is essential that the Council receive the best possible estimate of the financial implications of a proposed operation.

G. Input from wider membership of the United Nations

20. New Zealand believes it is essential to develop mechanisms, appropriately devised for each case, to enable the Council, through informal working groups or similar processes, to consult and obtain input from States not members of the Council that have a special interest in the issue, whether because they are involved at a regional level or because they are troop-contributors. Such mechanisms should also be employed whenever the Council conducts formal reviews of an operation.